LAND ACQUISITION (MYSORE AMENDMENT AND VALIDATION) BILL, 1967.

Motion to Conside

Sri B. RACHAIAH.—I beg to move :

"That the Land Acquisition (Mysore Amendment and Validation) Bill, 1967, be taken into consideration."

Mr. SPEAKER.—Motion moved :

"That the Land Acquisition (Mysore Amendment and Validation) Bill, 1967, be taken into consideration."

† **Sri B. RACHAIAH.**—This amending Bill is necessitated because the Supreme Court has held that after the publication of the preliminary notifications, the Government cannot publish piecemeal award. When once all the survey numbers which are comprised in the preliminary notifications are published, then the Government should publish all the survey numbers comprised in the preliminary notifications even under Section 1 of the Land Acquisition Act. In some cases it so happens that for industrial projects or for the P. W. D. projects, several survey numbers are required. In such cases they give the whole area comprising of several survey numbers and after the notice we issue a preliminary notification under section 1 and later on as and when according to the convenience of the P. W. D. or the Industries Department or any public undertaking, the Government used to issue notifications. This has been invalidated by the decision of the Supreme Court.

Sri H. SIDDAVEERAPPA.—What was the compelling reason ? Why did the Supreme Court give that decision ?

[MR. DEPUTY SPEAKER in the Chair.]

Sri B. RACHAIAH.—The compelling reason is that once they notify certain survey numbers in the preliminary notification and subsequently issue a separate notification on piecemeal method that will take away the effect of the first notification, and therefore whatever there is in the preliminary notification will have to be compiled in the final notification. This would delay the whole procedure and the party which is going to acquire the land will have to bear extra cost and pay rent and more crop compenssion. In addition to this, the Supreme Court has held that as far as possible while issuing final notification it should comprise the entire survey number in the preliminary notification that was notified. Therefore, in order to avoid delay and further extra expenditure in the payment of compensation, this Bill is necessitated. After the issue of peliminary notifications the amendment seeks that within three years of the issue of preliminary notification, final notification be published and the time taken in the court if any of the land acquisition cases, is challenged in the court, be excluded. That is the provision

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sought to be incorporated in the Act. This is a very simple amending Bill which will enable the Government to push through land acquisition cases and see land is made available for various purposes so that we may complete the projects within the scheduled time.

With these few remarks, I commend the Bill for the aeceptance of the House.

Sri H. SIDDAVEERAPPA.—Sir, I oppose this measure. It is really not so simple as the Hon'ble Minister wants us to believe or wants to make out. It can be seen that the Land Acquisition Act is a very old Act. It is in a sense exproprietory in nature, in a sense dispossessing the proprietory right of an individual. If it is for a public purpose, that purpose must be specified. It should be specifically and categorically stated in section 4 which is the foundation of the very act of acquiring a particular property. Under section 4, the preliminary notification very clearly says the purpose for which this acquisition is needed and also the area, the extent, the survey numbers and various other details as required under the Act. It will be seen that a good deal of attention and thought will have to be bestowed before a preliminary notification under section 4 is really issued. After section 4, the next event in that chain of acquisition is an enquiry and after the enquiry the concerned parties will be notified. They will file objections, if any. The objections will be heard and after all that process is over, if the acquiring authority or the competent authority empowered to acquire a particular land is satisfied that that particular land is needed for a public purpose or for any purpose specified, then the notification under section 6 will be issued. This is almost in the stage of final proceeding. Then other events follow. Suppose the Government says that about 6 or 8 survey numbers are needed for a particular purpose. Subsequently, they change their mind—God knows how, because the way in which the mind of the executive works is sometimes mysterious we, common people, will not be able to understand. There are various forces, may I say, sometimes ulterior forces working and under the guise of making use of a private property for a public purpose a particular individual may be dispossessed of his property. When such a contingency arises, where is the opportunity for him to contest and say that he has not been given an opportunity to file preliminary objections? Therefore, it is presumed that whoever is the acquiring authority, he knows his requirements to begin with; he knows the extent of the land he requires. I do not know whether the Hon'ble Minister has seen the Supreme Court Judgment. Perhaps it may be wrong on my part to presume that he has not seen it. The purpose of that judgment is just to show that at some stage further survey numbers or a larger area may be sought to be included for the purpose of acqusition. As I said, acquiring property is more or less exproprietory in nature. Under the Constitution we have freedom to use our property

for our own use subject to certain restrictions as laid down therein. When such is the position, with a view to take away the teeth from the party that wants to expropriate or dispossess a particular individual, a procedure has been laid down. Therefore, I oppose this measure. Of course, the Minister stated something about compensation and various other things. Compensation, as it has been laid down, is the market value. Today, they may want to acquire four survey numbers. After some period they may acquire more survey numbers. Nowadays prices are inflated. So, whatever is the market value at the time of preliminary notification will have to be paid, whoever may be the person who wants that property. Expediency, time factor and various other factors do not weigh. That is why the Supreme Court has held that section 17 which is the emergency provision is illegal. I therefore feel that this is a mischievous amendment, if I may say so; it is not so simple as they want us to believe or to make out. Therefore, I vehemently oppose this Bill.

†Sri M. R. PATIL (Hubli).—Sir, this is a very simple Bill. It has been brought because the Supreme Court has held that once a notification under section 4 is issued, they cannot acquire land piecemeal by declarations under section 6. Supposing by notification Government has declared that eight survey numbers are necessary for a public purpose, then if by declaration under section 6 it declares that only four survey numbers are required for a public purpose, it cannot afterwards acquire the remaining four survey numbers. That is what the Supreme Cour has held. The idea is that instead of again issuing a notification under section 4 in respect of those remaining four survey numbers, they can declare piecemeal in respect of different lands under section 6 once the survey numbers are included in notification under section 4. I do not see any objection to accept the amendment proposed in this Bill.

† Sri B. RACHAIAH.—Sir, the intention of the Government is not to disturb section 4 (1). Under section 4 (1), after the preliminary notification is issued reasonable time is given to the parties to raise objections and they will be heard by the Deputy Commissioner who is the Land Acquisition Officer. The Supreme Court has said that Government cannot acquire land by means of successive declarations following the notifications under section 4 (1) in respect of a particular area. Once we issue a preliminary notification declaring our intention to acquire certain areas comprising certain survey numbers and certain extent of area, we cannot go on acquiring them piecemeal. Just to overcome that, we have thought of amending this Act.

Sri H. SIDDAVEERAPPA.—Why should you think of acquiring piecemeal and why should you not make up your mind once and for all and why should your mind go on changing ?

Sri B. RACHAIAH.—Sir, if I can quote an instance, for rehabilitation of certain people in Sharavathi area, certain lands had to be acquired on the basis of the first proposal. Afterwards, when we came

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to know that a particular Survey number or extent is not required, we had to drop some portion. Similarly, for industrial purposes also, certain numbers are notified and subsequently in view of the financial difficulties or administrative difficulties, if they do not require so much area, we may drop some portion and may acquire some portion which has been preliminarily notified under Section 4. So also in the case of Irrigation Project. Certain preliminary schemes are prepared by the P.W.D. with regard to submersion of lands. They want the Land Acquisition Officer to notify certain areas which are going to be submerged under certain Survey numbers. After resurvey, if they say that a particular Survery number is not going to be submerged, we will have to revise it.

Sri C. K. RAJAIAH SHETTY.—May I know whether the P.W.D. is not competent to tell the exact Survey Numbers which are to be submerged. They can take levels and mark out.

Sri B. RACHAIAH.—In the case of Mangalore Harbour, they wanted 5000 acres originally and gradually they are reducing the extent because the local people are not willing to give that land and that the area is not necessary. In order to cater to the needs and requirements of the acquiring authority, we will have to issue preliminary notification. Therefore, the Government should have power to reduce or increase the area. Once the area is notified under Section 4 (1), the Government should have the power to see that the lands are notified according to their convenience.

Sri H. SIDDAVEERAPPA.—What are you going to do if you want more Survey numbers than those specified in the preliminary notification? That is the objection I have. If you want to take less number than the number specified, I have no objection.

Sri C. K. RAJAIAH SHETTY.—You have got the right to reduce, but not the right to add some more. There is no legal support for that.

Sri B. RACHAIAH.—What the Supreme Court have said is that according to Section 6, as it is worded, successive declarations cannot be made in respect of lands notified under Section 4 (1).

Sri H. SIDDAVEERAPPA.—The decision of Supreme Court is very wise in the interests of the citizens of the country. Why can't you follow the right royal procedure as laid down in the Act? Why do you want to dispense away with that?

Sri B. RACHAIAH.—We notified certain areas comprising of certain Survey numbers and certain extent. All that the Supreme Court wants us to do is that whatever we have published in the preliminary notification should have to be published under Section 6 of the Act, and the Government has no powers to publish it by successive declarations. They want it in one and the same publication, the survey numbers that were published in Section 4 (1). That was the decision of the

Supreme Court. But, our difficulty has been that we cannot go on publishing the entire area which we notified under Section 4 (1). As and when the money is made available by the respective acquiring authority, we go on issuing final notification. That is why that will be very difficult if we accept this position and then go on paying the compensation irrespective of the fact that the land is required for the purpose or not.

ಶ್ರೀ ಎಸ್. ಗೋಪಾಲಗೌಡ.—ಈ ಮನೂದಯನ್ನು ನಾವು ಕಾನೂನು ಮಾಡುವುದರಿಂದ ಇನ್ನುಮುಂದೆ ಈಗ ಮಾಡುವ ರೀತಿಯಲ್ಲಿ ಅವರು ಜಮೀನನ್ನು ಆಕ್ಸ್ಚ್ಯೂರು ಮಾಡಿಕೊಂಡು ಹೋಗ ಬೇಕೋ ಅಥವಾ ಅದನ್ನೇನಾದರೂ ಸುಪ್ರೀಂ ಕೋರ್ಟ್ ವಿರೋಧಮಾಡುತ್ತಾರೋ, ಏನೋ ಎಂಬುದು ಇನ್ನೂ ಪರಿಹಾರವಾಗಲಿಲ್ಲ. ಇದೇ ನನ್ನ ಸಂಶೇಹ.

ಶ್ರೀ ಬಿ. ರಾಚಯ್ಯ.—ಈಗ ಏನು ಪ್ರಿಲಿಮಿನರಿ ನೋಟಿಫಿಕೇಷನ್ ಆಗಿದೆಯೋ ಅದು 10 ವರ್ಷಗಳ ಹಿಂದೆ ಆದುದು. ಇದೇ ರೀತಿಯಾಗಿ ಇನ್ನೂ ಫೈನಲ್ ನೋಟಿಫಿಕೇಷನ್ ಆಗದೇ ಇರುವುದು ಇನ್ನೂ ಅನೇಕ ಇವೆ. ಅದಕ್ಕೆ ಇಲ್ಲಿ ಈಗ ಏನು ಗೊತ್ತುಮಾಡುತ್ತಾ ಇದ್ದೇವೋ ಅದರ ಬಗ್ಗೆ ಪ್ರಿಲಿಮಿನರಿ ನೋಟಿಫಿಕೇಷನ್ ಇಷ್ಯೂ ಮಾಡಿದ್ದು ಆಗಿದೆ. ಮೂರು ವರ್ಷಗಳೊಳಗಾದರೂ ಫೈನಲ್ ನೋಟಿಫಿಕೇಷನ್ ಇಷ್ಯೂ ಮಾಡಿದರೆ ಕಾಲವಿಳಂಬವಾಗುವುದನ್ನು ಕಡಿಮೆಮಾಡಬಹುದು.

6-00 P.M.

ಇನ್ನೊಂದು ವಿಷಯ. ಸೆಕ್ಷನ್ 4 (1) ರಲ್ಲಿ ಏನು ವಿಸ್ತೀರ್ಣ ಮತ್ತು ಅದರ ಸರ್ವೆ ನಂಬರ್ ಗಳು ಯಾವ್ಯಾವ ಕಾರಣಗಳಿಗೆ ಬೇಕಾಗಿದೆ ಎಂಬ ಬಗ್ಗೆ ನಾವು ಪ್ರಕಟಣೆ ಮಾಡಿದಮೇಲೆ ಅದನ್ನು ಲ್ಯಾಂಡ್ ಅಕ್ವಿಸಿಷನ್ ಕಾನೂನು 6ನೇ ಸೆಕ್ಷನ್ ಪ್ರಕಾರ ಅದರಲ್ಲಿ ಹೇಳಿರುವ ಹಾಗೆ ಒಟ್ಟಿಗೆ ಪ್ರಕಟಣೆ ಮಾಡಬೇಕು, ಬೇರೆ ಬೇರೆಯಾಗಿ ಮಾಡುವುದಕ್ಕಾಗುವುದಿಲ್ಲ. ಈಗ ಇದರಲ್ಲಿ ಆ ರೀತಿ ಇರುವುದರಿಂದ ಬೇರೆಬೇರೆಯಾಗಿ ಪ್ರಕಟಣೆ ಮಾಡುವುದಕ್ಕೆ ಇದರಲ್ಲಿ ಒಂದು ಅವಕಾಶವನ್ನು ಕಲ್ಪಿಸಬೇಕಾಗಿದೆ. ಆ ರೀತಿಯಾಗಿ ಮಾಡದಿದ್ದರೆ ಸ್ವಲ್ಪಮಟ್ಟಿಗೆ ಅಕ್ವೆಯರಿಂಗ್ ಅಥಾರಿಟಿಗೆ ತೊಂದರೆಯಾಗುತ್ತದೆಂದು ನಾನು ಹೇಳುತ್ತಿದ್ದೇನೆ.

(Mr. SPEAKER in the Chair)

Mr. SPEAKER.—Where is the confussion in it ? I was not able to understand. It is very clear.

Sri H. SIDDAVEERAPPA.—Some of us will go through the decision of the Court as to what exactly is the point and why the decision was given. Tomorrow, we will come with a clear understanding. It may be held over. The Hon'ble Minister may give us a copy of the decision of the Supreme Court.

Mr. SPEAKER.—The member will please ask me and I can give him two copies. The effect of early declaration under article 4 freezes the market value. It is not possible to finalise the entire award. With a view to avoid hardship time and again awards have been passed. May I know when was the decision taken by the High Court, whether it is on that date or it is at the later date relating to the market value. You know, as a very learned Lawyer, how to canvass and get more for the client.

Sri B. RACHAIAH.—This was reported in A.I.R. 1966 Supreme Court-Page 1953.

†ಶ್ರೀ ಎರ್. ಶ್ರೀಕಂಠಯ್ಯ.—ಸ್ವಾಮಿ, ಸೆಕ್ಷನ್ 4ರ ಪ್ರಕಾರ ಯಾವುದೋ ಒಂದು ಸರ್ವೆ ನಂಬರಿನಲ್ಲಿ 20 ಎಕರೆ ಜಮೀನು ಬೇಕೆಂದು, ಅದನ್ನು ಅಕ್ವೈರ್ ಮಾಡಿಕೊಳ್ಳಲು ಸರ್ಕಾರದವರು ನೋಟಿಫಿಕೇಷನ್ ಮಾಡುತ್ತಾರೆ ಎಂದು ಇಟ್ಟುಕೊಳ್ಳೋಣ. ಸೆಕ್ಷನ್ 6ರ ಪ್ರಕಾರ ಆ 20 ಎಕರೆ ಜಮೀನಿನಲ್ಲಿ 4 ಎಕರೆ ಜಮೀನು ಮಾತ್ರ ಬೇಕು, 16 ಎಕರೆ ಬೇಡವೆಂದು ಪ್ರಕಟಣೆ ಮಾಡುತ್ತಾರೆ. ಆಗ ಆ ಜಮೀನಿನ ಮಾಲೀಕ ನಾಲ್ಕು ಎಕರೆ ಮಾತ್ರ ಕೇಳಿದ್ದಾರೆ ಎಂದು ಉಳಿದ 16 ಎಕರೆ ಜಮೀನಿನಲ್ಲಿ ಅವನು ಯಾವುದೇ ಕೆಲಸವನ್ನು ಶುರು ಮಾಡುತ್ತಾನೆ. ಅವನು ಅದರಲ್ಲಿ ಮನೆ ಕಟ್ಟಿಕೊಳ್ಳುತ್ತಾನೆ, ಅಥವಾ ಕೈಗಾರಿಕೆಯನ್ನು ಮಾಡಿಕೊಳ್ಳುತ್ತಾನೆ. ಈಗ ಸುಪ್ರೀಮ್ ಕೋರ್ಟ್‌ನವರು ಏನು ಹೇಳಿದ್ದಾರೆ ಎಂದರೆ, ಸೆಕ್ಷನ್ 6ರ ಪ್ರಕಾರ ಮತ್ತೆ ಡಿಕ್ಲೆರೇಷನ್ ಕೊಟ್ಟು ಮೊದಲು ಸೆಕ್ಷನ್ 4ರ ಪ್ರಕಾರ ಅಕ್ವೈರ್ ಮಾಡಿಕೊಂಡು ಉಳಿದಿರತಕ್ಕ ಜಮೀನನ್ನು ಮತ್ತೆ ಅಕ್ವೈರ್ ಮಾಡಿಕೊಳ್ಳಲು ಸಾಧ್ಯವಿಲ್ಲ ಎಂದು ಹೇಳಿದ್ದಾರೆ. ಈಗ ತಂಬಿರತಕ್ಕ ತಿದ್ದುಪಡಿಯ ಪ್ರಕಾರ ಹಿಂದೆ ಬಿಟ್ಟಿರತಕ್ಕ 16 ಎಕರೆ ಜಮೀನನ್ನು ಮತ್ತೆ ಬೇಕು ಎಂದು 3 ವರ್ಷದೊಳಗೆ ಯಾವೊತ್ತು ಬೇಕಾದರೂ ಡಿಕ್ಲರೇಷನ್ ಮಾಡಬಹುದು. ಈ ರೀತಿಯಾದರೆ ಆ ಜಮೀನಿನ ಮಾಲೀಕನ ಪರಿಸ್ಥಿತಿಯೇನು? ಮತ್ತು ಆ ಜಮೀನಿನ ಮಾಲೀಕನಿಗೆ ಕಾಂಪನ್‌ಸೇಷನ್ ಸೆಕ್ಷನ್ 4ರ ಪ್ರಕಾರ ಕೊಡುತ್ತೀರೋ ಅಥವಾ ಸೆಕ್ಷನ್ 6ರ ಪ್ರಕಾರ ಕೊಡುತ್ತೀರೋ? ಈ ವಿಚಾರದಲ್ಲಿ ಮಾನ್ಯ ಮಂತ್ರಿಗಳು ಉತ್ತರ ಕೊಡಬೇಕು.

ಅಧ್ಯಕ್ಷರು.—ಇದಕ್ಕೆ ಮಂತ್ರಿಗಳು ನಾಳೆ ಉತ್ತರ ಕೊಡುತ್ತಾರೆ. The House will now stand adjourned to re-assemble tomorrow at 1 P.M.

The House adjourned at Five Minutes past Six of the Clock to re-assemble at One of the Clock on Wednesday, the 13th December 1967.